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(Weekly Leader)	(<u>majoritywhip.gov</u>)	(<u>rules.house.gov</u>)

BILL TEXT AND BACKGROUND FOR THE WEEK OF FEBRUARY 23, 2009

- H.R. 1105 the Omnibus Appropriations Act of 2009
- Possible Consideration of H.R. 1106 Helping Families Save Their Homes Act of 2009

H.R. 1105 – THE OMNIBUS APPROPRIATIONS ACT OF 2009(Rep. Obey –

Appropriations) (Subject to a Rule)

Bill Text: HTML Version. PDF Version

Bill Summary and Status

Rules Committee Meeting: Tuesday, February 24, 2009 at 2:00 p.m. in H-313 the Capitol, Special Announcement, Meeting Time: 2:00pm Tuesday 2/24, Text of the Bill and Joint

Explanatory Statement

Committee: Committee on Appropriations

Committee Staff Contact: 5-2771

LEGISLATION AT A GLANCE:

SUMMARY OF H.R. 1105, THE OMNIBUS APPROPRIATIONS ACT OF 2009

Today Appropriations Committee Chairman Obey, introduced a \$410 billion bill to wrap up work on the fiscal year 2009 appropriations bills.

Last year, President Bush refused to work with Congress to come up with a compromise to finish these nine bills, instead insisting on unacceptable cuts to energy research, healthcare, education, law enforcement and biomedical research. President Bush would have insisted on:

- Cutting energy efficiency, renewable energy and weatherization programs by \$915 million;
- Cutting education by \$3.3 billion eliminating vocational education programs, slashing higher education programs, and cutting programs to help teachers and improve technology;
- Cutting healthcare access programs by over \$1 billion while the number of uninsured Americans continues to grow, freezing biomedical research funding, and cutting the Centers for Disease Control by \$475 million;

- Cutting state and local law enforcement grants by \$1.5 billion, or 65%; and
- Cutting job training, employment services and worker protections during the economic crisis by \$1.2 billion.

At the same time, the Bush budget would have increased funds to favored initiatives that were proven to be ineffective or unable to spend the money they were given last year.

Congress rejected these devastating cuts and irrational increases, and today presents a bill that will keep the government running and finish last year's business. This bill works in harmony with the economic recovery package, making investments that address the country's immediate needs while investing in our long term economic strength.

- **Energy Security:** Increases funding for renewable energy and energy efficiency efforts to increase the production of clean, efficient, American energy key to our long term economic security.
- **Scientific Research:** Makes strong investments into cutting edge science so that our nation will maintain its preeminence in the global economy.
- Healthcare Access and Affordability: Improves access to quality, affordable healthcare.
- Education to Promote Opportunity: Promotes our future economic strength by investing in K-12 education and helping families send their kids to college.
- Workers: Helps American workers in the tough economy train for and find good jobs in safe workplaces.
- Safe and Healthy America: Protects Americans by investing in programs to ensure clean air and water, and the safety of our food, medicine and consumer products.
- A Critical Look: Cuts and eliminates programs that haven't performed the way they should and includes strict accountability measures to ensure American tax dollars are spent wisely. Invests in oversight efforts carried out by the Inspectors General and the Government Accountability Office.
- **Regulation for an Economy in Chaos:** Strengthens regulatory agencies that had been neglected, to beef up their efforts during the economic crisis.

Earmarks are further reduced by 5% below last year's levels, building on last year's 43% reduction.

BILL SUMMARIES ARE AVAILABLE BY CLICKING THE LINKS BELOW:

- Agriculture
- Commerce, Justice, Science
- Energy and Water Development
- Financial Services
- Interior and the Environment
- Labor, Health and Education
- Legislative Branch
- State and Foreign Operations
- Transportation, Housing and Urban Development

Searchable bill text and explanatory statements are available here: http://appropriations.house.gov/FY2009_consolidated.shtml

A summary of the cuts proposed in President Bush's budget is available here: http://appropriations.house.gov/pdf/Budget2008Release.pdf

CRS Reports:

A list of CRS products related to FY2009 appropriations is available on the <u>Appropriations Status</u>, <u>Jurisdictions</u>, <u>and Processes</u> page FY 2009 Status Table of Appropriations

GAO Reports:

(TBA)

CBO Report:

(TBA)

Organization Statements:

(TBA)

Administration Position:

(TBA)

Fact Sheets & Talking Points:

Appropriations Committee Fact Sheets:

- ➤ Bill Text and Explanatory Statements
- Summary: Agriculture
- > Summary: Commerce, Justice, Science
- > Summary: Energy and Water Development
- Summary: Financial Services
- > Summary: Interior and the Environment
- Summary: Labor, Health and Education
- Summary: Legislative Branch
- Summary: State and Foreign Operations
- Summary: Transportation, Housing and Urban Development

Press Releases, News Articles & Related Information:

<u>Press Release:</u> House Appropriations Committee Introduces FY09 Consolidated Appropriations Act, January 23, 2009

Other Resources:

(TBA)

H.R. 1106 – HELPING FAMILIES SAVE THEIR HOMES ACT OF

2009(Rep. Conyers/Frank – Judiciary/Financial Services) (Subject to a Rule)

 Bill Text: HTML Version, PDF Version Bill Summary and Status **Rules Committee Meeting:** Wednesday, February 25, 2009 at 4:00 p.m. in H-313 the Capitol, <u>Special Announcement</u>, <u>Amendment Deadline: 12:00pm on Wednesday 02/25</u>, <u>Text</u> of the Bill as Introduced

Committee: Committee on the Judiciary; Committee on Financial Services Committee Staff Contact: Judiciary 5-3951; Financial Services 5-4247

LEGISLATION AT A GLANCE:

H.R. 1106, THE HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The deep contraction in the economy and in the housing market has created devastating consequences for homeowners and communities throughout the country.

- Millions of responsible families who make their monthly payments and fulfill their obligations have seen their property values fall, and are <u>now unable to refinance at</u> <u>lower mortgage rates.</u>
- Millions of workers have lost their jobs or have had their hours cut back, and they are
 <u>now struggling to stay current on their mortgage payments</u> with nearly 6 million
 households facing possible foreclosure.
- Neighborhoods are struggling, as each foreclosed home reduces nearby property values by as much as 9 percent.

President Obama is working with Congress to address the current crisis in the housing market. The Helping Families Save Their Home Act is the first integral step toward implementing President Obama's comprehensive Homeowner Affordability and Stability Plan, which he announced and outlined last Wednesday. Nearly all of the provisions included in this bill are part of the President's Plan. The bill will support a recovery in the housing market and ensure that American workers who have played by the rules and acted responsibly can continue paying off their mortgages. The bill will assist homeowners making a good-faith effort to stay current on their mortgage payments, while attempting to prevent the destructive impact of foreclosures on families and communities. The Helping Families Save their Home Act will help reduce foreclosures and strengthen communities.

SUMMARY OF H.R. 1106, THE HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

TITLE I – PREVENTION OF MORTGAGE FORECLOSURES

Bolster FHA and VA Authority to Protect Investors and Ensure Loan

Modifications Occur: The bill helps veterans and other homeowners to avoid foreclosure by allowing the Department of Veterans Affairs, the Federal Housing Administration, and U.S. Department of Agriculture to guarantee and/or insure mortgage loans modified either out of court or in a bankruptcy case. This will

provide financial incentives for lenders to voluntarily modify mortgage loans in lieu of foreclosure. The bill expands the FHA's mortgage loan modification abilities to keep more people in their homes and thereby reduce foreclosures by allowing a reduction of interest payments of up to 30% of the outstanding loan balance.

Judicial Modifications of Home Mortgages During Bankruptcy for Borrowers Who Have Run Out of Options: The bill will allow judicial modifications of certain mortgage loans on a homeowner's principal residence if the homeowner meets specified stringent criteria. Under current law, virtually every other secured claim may be judicially modified, including claims secured by vacation homes, family farms, and investment properties. This relief is extended only to mortgages that originated prior to the Act's date of enactment so that bankruptcy judges can modify mortgages when families exhaust other options. Specifically, the bill would:

- Permit the mortgage's repayment period to be extended so that the mortgage is more affordable.
- Authorize an exorbitant mortgage interest rate to be reduced to a level that will keep the
 mortgage affordable over the long-term while also compensating creditors appropriately
 for risk.
- Require the homeowner facing foreclosure to attempt to notify the lender and work out a loan modification *before* he or she can apply for judicial modification.
- Ensure lenders provide proper notice when assessing fees and allow judges to waive prepayment penalties.
- Maintain the debtor's legal claims against predatory lenders while in bankruptcy.
- Prohibit a borrower convicted of fraud in obtaining the mortgage from being allowed to modify his or her mortgage under this legislation.

• The bill would **NOT**:

- Rewrite the 2005 Bankruptcy Code amendments. The current legal prohibition on modifying primary mortgages dates back to 1978 when most mortgages were 30-year fixed rate loans owned by local banks rather than the rapidly changing adjustable rate mortgages that have been originated and sold to investors widely in recent years.
- Leave financial institutions with losses by letting families completely escape from their financial obligations, because the bill is structured to encourage families to pay their mortgages to the greatest extent that they are able.
- o Increase the cost of borrowing for other homeowners because, compared to the sole alternative of foreclosure, this measure would maximize, not lessen, the value of troubled mortgages for the lender and not result in additional costs to recoup. And, the bill is limited to existing mortgages, i.e., mortgages originated prior to the date of enactment of the bill.

TITLE II – FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

<u>Servicer Safe Harbor</u>: The bill provides a safe harbor from liability to mortgage servicers who engage in loan modifications workouts or other loss mitigation, regardless of any

provisions in a servicing agreement, so long as the servicer acts in a manner consistent with the duty established in Homeowner Emergency Relief Act (maximize the net present value (NPV) of pooled mortgages to all investors as a whole; engage in loan modifications for mortgages that are in default or for which default is reasonably foreseeable; the property is owner-occupied; the anticipated recovery on the modification would exceed, on an NPV basis, the anticipated recovery through foreclosure). The bill also requires mortgage servicers who modify loans under the safe harbor to regularly report to Treasury on the extent, scope and results of the servicer's modification activities.

HOPE for Homeowners: The bill amends the HOPE for Homeowners Program provisions of the National Housing Act to encourage more lenders to participate by reducing the fees and write downs, providing incentives for mortgage servicers to engage in modifications under the Program, and reducing administrative burdens to loan underwriters by making the requirements more consistent with standard FHA practices. Specifically, the bill would:

- Put the HUD Secretary in charge of running the program, leaving the Program Board's role as an advisory capacity.
- Change the upfront fee from 3% to "up to 2%."
- Change the annual fee from 1.5% to "up to 1%."
- Require the HUD Secretary to weigh both maximization of participation and collection of premiums when setting upfront and annual fees.
- Provide for "up to 50%" of appreciation profit share (instead of requiring 50%) and allow the sharing of this profit with the existing first lender to induce loan write downs.
- Cap profit sharing at up to the appraised value of the property when the existing loan was made.
- Permit payments to existing servicers of up to \$1,000 for each successful refinance.
- Re-instate authority to conduct an auction to refinance loans on wholesale or bulk basis.
- Include a number of administrative changes, including:
 - o requiring conformity to FHA endorsement policies, as much as possible;
 - o eliminating the March 1, 2008, income affordability test;
 - eliminating certification of no intentional default on other debts, applying certification of no false information being provided to the new FHA refi loan, and eliminating reference to going to jail because of false statements;
 - o providing for less prescriptive language regarding collection of income tax returns;
 - o requiring HUD to conform program documents, forms, and procedures to those in place for regular FHA loans;
 - o eliminating extraneous loan-to-value restrictions on use of second lien loans to maintain property; and
 - o barring borrowers with a net worth of more than \$1 million from participation in the Program.
- Offset: Reduces existing TARP authority by \$2.316 billion to offset cost of program changes.

<u>FHA Approval</u>: Contains numerous provisions to better ensure that predatory lending entities and individuals are not allowed to participate in the FHA home mortgage insurance program. Specifically, the bill would:

• Require HUD approval of all parties participating in the FHA single family mortgage origination process.

- Allow HUD to impose a civil money penalty against loan originators who are not HUD-approved and yet participate in FHA mortgage originations.
- Make clear that an applicant is ineligible for approval if the entity or any officer, partner, director, principal, or employee of the entity is: a) suspended or debarred by any Federal agency; b) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee; c) subject to unresolved findings contained in a HUD or other governmental audit, investigation, or review; d) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees; e) convicted of a felony related to participation in the real estate or mortgage loan industry; or f) in violation of provisions of the S.A.F.E. Mortgage Licensing Act.
- Require that HUD receive notice of the debarment and any change in licensing status of a FHA approved mortgagee.
- Require HUD to expand the existing FHA process of reviewing new applicants for FHA
 approval for the purpose of identifying those representing a high risk to the Mutual
 Mortgage Insurance Fund and implement procedures that expand the number of loans
 reviewed by FHA for lenders approved within the last 12 months, and include a process
 for random reviews that is based on loan volume by newly approved participants.
- Require FHA approved mortgagees to use their HUD registered company names in all advertizing and to keep copies of all advertisements.

<u>Deposit Insurance</u>: The bill amends the Federal Deposit Insurance Act and the Federal Credit Union Act to enhance the liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures. Specifically, the bill would:

- Make permanent the temporary increase in deposit insurance coverage for both the FDIC Deposit Insurance Fund and the National Credit Union Administration (NCUA) Share Insurance Fund to \$250,000 (the temporary increase is currently scheduled to sunset on December 31, 2009), and include an inflation adjustment provision for future coverage.
- Extend the time limit for an FDIC Restoration Plan to rebuild the reserve ratio of the Deposit Insurance Fund from 5 years to 8 years. Establish a 5-year restoration plan for the NCUA, which is currently required to restore the equity ratio of the Share Insurance Fund within one year.
- Increase the FDIC's borrowing authority from the Treasury Department from \$30 billion to \$100 billion and the NCUA's Share Insurance Fund's borrowing authority from \$100 million to \$6 billion.
 - O Any amounts borrowed must be used only for insurance purposes.
 - o Neither the FDIC nor the NCUA has ever used this borrowing authority.
 - The FDIC borrowing authority amount has not changed since 1991, even though the size of the industry has tripled. The NCUA borrowing authority has not changed since 1972 when it was established, even though the size of the industry has increased from \$13.8 billion in 1972 to \$813 billion at year-end 2008.
 - Any money borrowed must be repaid, with interest, pursuant to a repayment schedule that must be in effect prior to receiving any money, and which is subject to a requirement to consult with and report to Congress.
- Allow the FDIC to charge systemic risk special assessments by rulemaking, on both insured depository institutions and depository institution holding companies. For holding company assessments, the concurrence of the Treasury would be required.

CRS Reports:

<u>RL34301</u>: The Primary Residence Exception: Legislative Proposals in the 111th Congress to Amend the Bankruptcy Code to Allow the Strip Down of Certain Home Mortgages

GAO Reports:

(TBA)

CBO Report:

(TBA)

Organization Statements:

List of Supporters of Judicial Modification of Mortgages Letter from Citigroup, January 8, 2009

Administration Position:

(TBA)

Fact Sheets & Talking Points:

(TBA)

Press Releases, News Articles & Related Information:

Democrats Respond to Obama Administration's Housing Plan:

- Hoyer Statement on Obama Administration's Housing Plan
- ➤ Pelosi Statement on President Obama's Housing Plan
- Statement of Congressman Barney Frank on the President's Foreclosure Reduction Plan

Other Resources:

(TBA)